Oregon State Council
SEIU
Stronger Together

Service Employees International Union – Oregon State Council

February 7, 2024

To: Senate Committee on Health Care

Fr: Matt Swanson, Service Employees International Union Oregon State Council

Re: Support for HB 4130

Chair Patterson, Vice Chair Hayden and Members of the Committee:

My name is Matt Swanson, and I am here representing the Service Employees International Union (SEIU). SEIU is an organization of 85,000 working Oregonians who are members of our Union. Our mission is to achieve a higher standard of living for our members, their families, and dependents by elevating their social conditions and by striving to create a more just society.

SEIU approaches healthcare policy from the perspectives of our members. This includes members who work in hospitals delivering critical care, members who collectively are significant purchasers privately and through PEBB, and of course SEIU members and their families who use the system as patients.

On behalf of them, I am here today to testify in support of HB4130. SEIU has been sounding alarms about the negative impacts of private equity in healthcare for the past several years. In fact, these concerns were a critical motivating factor for advocating for the passage of Oregon's groundbreaking mergers and acquisition law in 2021 that created the Healthcare Market Oversight Program.

Private equity's singular focus on generating substantial financial gains for investors over a relatively short period is fundamentally at odds with the kinds of longer-term investments that must be made to ensure the delivery of quality healthcare. The evidence on this topic is so clear that a bipartisan federal investigation was recently launched by U.S. Democratic Sen. Sheldon Whitehouse and Republican Sen. Chuck Grassley into private equity hospital ownership. When announcing this effort, Sen. Whitehouse said, "It's now a familiar story. [P]rivate equity buys out a hospital, saddles it with debt, and then reduces operating costs by cutting services and staff — all while investors pocket millions. Before the dust settles, the private equity firm sells and leaves town, leaving communities to pick up the pieces."[i]

As a union of healthcare workers, SEIU knows well that healthcare is delivered by people. The best care is delivered by people who have the stability, wages and benefits to be thoroughly trained, develop experience, and stay healthy themselves. This does not happen accidentally. Staff recruitment and retention, which in turn impacts patient safety and care quality, is no accident – it is an investment.

However, there is now strong evidence to suggest that when private equity gets involved, these investments fail to be made and patients suffer the consequences. In January, researchers from Harvard Medical School and the University of Chicago published the results of a large-scale study analyzing data from more than 300 hospitals between 2009 and 2019. They found that, within three years of being acquired by a private equity fund, patient falls grew by 27%. In addition, central-line bloodstream infections increased by nearly 38%, despite private equity hospitals placing 16.2% fewer central lines compared with other facilities. The authors attribute these negative outcomes to reductions and changes in staffing made by private equity owners.[ii]

A closer look at one private equity-backed firm, LifePoint, illustrates these issues. LifePoint, which is owned by multi-billion-dollar[iii] private equity firm Apollo Global Management, has increased its presence here in Oregon in recent years. Since 2021, PeaceHealth has partnered with LifePoint to provide inpatient rehabilitation services at its University District hospitals,[iv] and OHA recently approved the certificate of need for a new LifePoint-PeaceHealth standalone rehab facility in Springfield. In addition, LifePoint is the parent company of Willamette Valley Medical Center.[v]

The Private Equity Stakeholder Project recently released a report outlining the various quality and access issues at LifePoint.[vi] Most troublingly, in June of 2022 regulators found enough patient safety issues with one of LifePoint's hospitals in North Carolina that CMS threatened to terminate its Medicare contract.[vii] Regulators found that these deficiencies were serious enough to warrant an "immediate jeopardy" designation – a situation in which a hospital has "placed the health and safety of recipients in its care at risk for serious injury, serious harm, serious impairment or death."[viii]

The North Carolina Department of Justice subsequently opened a separate investigation of the hospital in August 2022.[ix] Assistant Attorney General Llogan Walters wrote to LifePoint that the state's DOJ is "extremely concerned about patients' ability to access quality healthcare" at Wilson, noting a decrease in available beds for inpatient care and allegations of chronic understaffing, a decrease in the treatment of low-income patients and the effective denial of care for patients who could not pay for essential treatment.[x] Denying care for patients in need of emergency treatment who do not have the ability to pay would violate the Emergency Medical Treatment and Labor Act (EMTALA). Federal regulators are reportedly reviewing an ongoing investigation into possible EMTALA violations at Wilson.[xi]

In addition, Lifepoint has a history of cutting costs, including employee salary and benefits, and financial assistance for needy patients. The Private Equity Stakeholder Project's report noted that, "Despite the pandemic and the federal relief aid, Lifepoint cut operating costs substantially in 2020, slashing salary and benefit costs by $166 million versus the prior year and cutting supply costs by $54 million versus the prior year. Lifepoint also cut the charity care it provided by 21% ($7.3 million) in 2020."[xii]

The full scope of private equity's presence in Oregon is hard to fully quantify, as the private equity backing of clinics and hospitals is often obscured from patients and community members. For example, the string of Legacy-branded GoHealth Urgent Care clinics that have sprung up around the Portland metro since 2015 are in fact operated and owned jointly by Legacy Health and Access Clinical Partners

LLP.[xiii] Access Clinical Partners is owned by TPG, (nee Texas Pacific Group), one of the nation's leading private equity firms with over $212 billion in assets currently under management.[xiv] (By way of comparison, this is $91 billion more than the state of Oregon's 2023-2025 legislatively adopted biennial budget of $121 billion.)[xv]

While these clinics operate under the nonprofit hospital brand, they are not nonprofit facilities. There is no mention of financial or charitable assistance on their website, which is required of other Legacy facilities.[xvi] This inconsistency is confusing for patients – and ultimately can be expensive for those who assumed they would be able to access assistance.

Since the launch of the Healthcare Market Oversight Program, we have also been able to gain insight into larger transactions involving private equity. To date, there have been at least three proposed transactions that have triggered notification.[xvii] The most recent transaction is still currently being reviewed by OHA staff. It would transfer ownership of local physician-owned practices in Eugene to a multi-state management services organization backed by private equity.[xviii]

If left unchecked, private equity investment in healthcare will likely only continue to grow in Oregon. We believe HB4130 provides a timely, thoughtful, and reasonable approach to curbing its expansion. Using an existing solution, such as the Corporate Practice of Medicine, is a wise approach to reinserting patients and quality care as the central compass for healthcare in Oregon. Moreover, the bill provides plenty of time for current entities to restructure. Banning non-compete clauses, in addition to non-disparagement and non-disclosure clauses, will allow doctors to speak out and foster greater transparency and accountability in facilities and systems of care.

Most of all, we are supportive of HB 4130 as a solution that puts healthcare workers at the center of making healthcare decisions. Healthcare's return on investment should be measured by the quality of patients' days lived, not on the billions returned to investors in a few short years. We urge the committee to support this bill.

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[i] 'Shell game': When private equity comes to town, hospitals can see cutbacks, closures - Stateline
[ii] How private equity could be affecting patient safety in hospitals | Modern Healthcare
[iii] $76.8B assets under management: Private Equity | Apollo Global Management (as of September 30, 2023)
[iv] CNApplicationPeaceHealth (oregon.gov)
[v] Willamette Valley Medical Center Celebrates $9 Million Cancer Center Expansion
[vi] PESP__Report_Apollo_Lifepoint_2024.pdf (pestakeholder.org)
[vii] 2 patient deaths threaten federal funding for Wilson hospital (wral.com)
[viii] State Operations Manual (cms.gov)
[ix] 8.22 AGO Letter to DLP - DocumentCloud
[x] 8.22 AGO Letter to DLP - DocumentCloud
[xi] Duke LifePoint hospital at risk of losing its Medicare contract — again (beckershospitalreview.com)

xii PESP_ Report_Apollo_Lifepoint_2024.pdf (pestakeholder.org)
xiii Legacy Health System, Official Statement, June 2016.
xiv https://www.tpg.com/. Accessed Feb 2024.
xv 2023-25 Budget Highlights.pdf (oregonlegislature.gov)
xvi https://www.gohealthuc.com/bill-pay. Accessed Jan 2021.
xvii 20231218-017-Agility-Keiper-Summary.pdf (oregon.gov); 2022-07-14-002-Falcon-Hospice-Exec-Summary.pdf (oregon.gov); 2022-09-09-004-SDB-Exec-Summary.pdf (oregon.gov)
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